



ARSENIC PATENT ELECTION/TRAVERSE

Application Control Number: 10/634,869

Art Unit: 1614

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The Applicant elects to maintain claims 1-19, affecting cancer morbidity and mortality, with traverse for claim 20, ~~affecting heart disease mortality~~, in response to a mailing dated 12/12/05,

TRAVERSE: There are several reasons why the restriction demanded by the Examiner is incorrect. (1) Her description of the heart disease claim as using arsenic as "inhibitor of a protein kinase" is in error – no such claim was made by the Applicant. (2) The Examiner classified both the cancer claims and the heart disease claim "in class 424, subclass 620, among others" – a commonality in Patent Office classification which should attest to a unity or commonality in the claim. (3) The Examiner asserts that "Each disease has a different etiology; and different compounds are used to treat each disease." The applicant is presenting claims not to treat the cancers and heart disease, but to prevent them. The commonality is a step or steps leading to the disease, like transcription of certain genes, which a modest level of arsenic (around 50 µg/L) impedes or prevents. (4) The Examiner has not required an election among the different cancer classifications, with different etiologies, different development strategies, demoralizing different organs, and with different, individualized treatment/cure regimens. A mechanism that prevents the destruction of a number of tissues by cancer may well prevent the destruction of the heart also. The classification terminology scientists use for disease finds a place for cancers of the liver or bladder, for example, but not for the heart. Some heart diseases would be the equivalent of cancers of the heart, if only scientists would use the terminology.

Gary Kayajanian
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